

REMARKS

STATUS OF CLAIMS

In response to the Office Action dated August 13, 2007, claims 1 and 4 have been amended. Claims 1-6 are now pending in this application. No new matter has been added.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103

I. Claims 1 and 2 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Yokota et al. (U.S. Patent 5,905,530).

To expedite prosecution, independent claim 1 has been amended to recite:

A digital camera comprising:

a zoom lens having wide-angle side and a telephoto side, the zoom lens including a main lens element in which there is high optical distortion on the telephoto side that needs correcting as compared with the optical distortion on the wide-angle side that does not need correcting;

an imaging device for photoelectrically converting subject light passing through said zoom lens, to generate image data; and

a signal processing circuit for subjecting said image data to a distortion correction process when the zoom lens is set on said telephoto side and not subjecting said image data to a distortion correction when the zoom lens is set on the wide-angle side.

Thus, amended independent claim 1 makes it clear that image data is subject to distortion correction only when the zoom lens is set on said telephoto side and not when the zoom lens is set on the wide-angle side. However, FIGS. 5 and 19 of Yokota et al., which are flowcharts showing a distortion correcting operation, evince that distortion correction is performed on image data when the zoom lens is set on both the telephoto side and the wide-angle side. Thus, amended independent claim 1 is patentable over Yokota et al., as is dependent claim 2.

II. Claims 4 and 5 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Stavely (U.S. Patent 7,098,949). However, the statutory basis for this rejection is incorrect as Stavely issued August 29, 2006 while the present application has a filing date of October 23, 2003. Consequently, the correct statutory basis for this rejection is under 35 U.S.C. § 102(e) since Stavely was filed on July 29, 2002.

The rejections are respectfully traversed.

Claim 4 clearly requires a zoom lens, which is not present in Stavely. More specifically, Stavely is designed to provide digital zooming without an optical zoom. To accomplish the digital zooming, lens 130 of Fig. 1A is provided. Lens 130 is a fixed lens, **NOT** a zoom lens and is selected so as to introduce barrel distortion in the optical images in order to improve the quality of image obtained from the digital zoom 150. Consequently, lens 130 has a higher magnification factor near its center than at its edges. However, this configuration does not make lens 130 a zoom lens.

Since Stavely does not disclose a zoom lens “having high optical distortion on a wide-angle side as compared with on a telephoto side”, independent claim 4 is patentable over Stavely, as is dependent claim 5.

At any rate, independent claim 4 has been amended in manner similar to that of independent claim 1 and now recites:

A digital camera comprising:
a zoom lens having wide-angle side and a telephoto side, the zoom lens including a main lens element in which there is high optical distortion on the wide-angle side that needs correcting as compared with the optical distortion on the telephoto side that does not need correcting;

an imaging device for photoelectrically converting subject light passing through said zoom lens, to generate image data; and
a signal processing circuit for subjecting said image data to a distortion correction process when the zoom lens is set on said wide-angle side and not subjecting said image data to a distortion correction when the zoom lens is set on the telephoto side.

Stavely does not disclose, *inter alia*, “a zoom lens having wide-angle side and a telephoto side, the zoom lens including a main lens element in which there is high optical distortion on the wide-angle side that needs correcting as compared with the optical distortion on the telephoto side that does not need correcting”.

III. Claims 3 and 6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Stavely in view of Matama (U.S. Publication 2005/0111110), relied upon by the Examiner as disclosing lens aberration processing wherein, when the lens aberration is large, the processing is performed and otherwise, the processing is skipped (paragraph [0100]). Since the Examiner subsequently refers to Yokota et al. at the bottom of page 4 of the Office Action, it is presumed that the Examiner intended to reject claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Yokota et al. in view of Matama (U.S. Publication 2005/0111110),

Claim 6 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Stavely in view of Matama.

The rejections are respectfully traversed.

As noted in the previous Response, Matama (U.S. Publication 2005/0111110) was filed December 23, 2004 and was published May 26, 2005 while the present application was filed October 23, 2003. Thus, the present application and Matama were co-pending. Furthermore,

Matama is assigned to FUJI PHOTO FILM CO., LTD (see item (73) on the front of the publication) and qualifies as prior art under 35 U.S.C. § 102(e). The present application is also assigned to FUJI PHOTO FILM CO., LTD. (See Reel 014635 Frame 0065). Consequently, 35 U.S.C. § 103(c) states:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall **not** preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person (emphasis added).

Therefore, the Examiner CANNOT use Matama to reject any of the present claims under 35 U.S.C. § 103.

This comment regarding why Matama CANNOT be used to reject any of the present claims under 35 U.S.C. § 103 was made in the Response filed May 22, 2007. Despite such comment, the Examiner has again used Matama to reject claims 3 and 6 under 35 U.S.C. § 103.

In view of prohibition under 35 U.S.C. § 103(c) from using Matama to reject any of the present claims under 35 U.S.C. § 103, it is requested that the Examiner provide an explanation as to why this statutory prohibition has been disregarded.

III. In view of the above, the allowance of claims 1-6 is respectfully solicited.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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